

### **REMARKS/ARGUMENTS**

Claims 1-24, 40 and 41 are now pending in this application. Claims 1 and 13 are independent claims.

#### ***Claim Rejections – 35 USC § 103(a)***

Claims 1, 2, 13, 14, 40 and 41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cockrill et al., United States Patent Number: 6,473,740 (hereinafter: Cockrill), in view of Freund et al., United States Patent Number: 6,138,169 (hereinafter: Freund), and further in view of Paul Dreyfus (CORBA: Theory and Practice) (hereinafter: Dreyfus). (Pending Office Action, Page 2). Claims 3-6, 8-12, 15-18 and 20-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cockrill, in view of Freund, in view of Dreyfus and further in view of Saulpaugh et al., United States Patent Number: 5,590,334 (hereinafter: Saulpaugh). (Pending Office Action, Page 4). Claims 7 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cockrill, in view of Freund, in view of Dreyfus and further in view of Sato (Facsimile system). (Pending Office Action, Page 6). Applicant respectfully traverses these rejections.

“To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.” (emphasis added) (MPEP § 2143). “If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is non-obvious.” (emphasis added) *In re Fine*, 837 F. 2d 1071, 5USPQ2d 1596 (Fed. Cir. 1988). Applicant respectfully submits that independent Claims 1 and 13 include elements that do not appear to have been disclosed by any of the references cited by the Patent Office, either alone or in combination.

Independent Claims 1 and 13 of the present application each generally recite the following:

“wherein the transaction object is capable of transmitting data related to the stored occurrence of the utilization event over a network via a *direct*, object-to-object communications protocol.”

The Patent Office correctly acknowledges that Cockrill and Freund fail to teach the above-referenced, claimed elements of the present invention. (Pending Office Action, Page 3). However, the Patent Office cites Dreyfus as teaching the above-referenced, claimed elements of the present invention. (Pending Office Action, Page 3).

The present invention implements a *direct*, object-to-object communications protocol. (Present Application, Page 12, Lines 26-28; Page 11, Lines 13-14). In the present invention, an architecture administrator (AA) *creates* objects. (Present Application, Page 12, Line 26). However, after the objects are created by the AA, the AA has no further involvement in object transactions. (Page 12, Lines 6-8). Therefore, all further communication happens *directly* between the objects, as claimed in the present application (i.e., “a *direct*, object-to-object communications protocol”). (Present Application, Page 12, Lines 26-28).

Dreyfus describes the object-oriented distributed environment, CORBA. The Patent Office cites lines 13-15 and 23-25 under the section entitled: “Architecture and ORBs as teaching a direct, object-to-object communications protocol as claimed in the present application. (Pending Office Action, Page 3). However, the Applicant would like to point out that the Patent Office has misinterpreted Dreyfus and that the CORBA environment disclosed in Dreyfus is not a *direct*, object-to-object communications protocol. As stated above, in the present invention, communication happens *directly* between the objects, (ex- happens *without centralized control*), which allows the system of the present invention to avoid introducing a “single point of failure”, thereby providing improved fault tolerance over existing protocols and object-based architectures. (Present Application, Page 11, Lines 5-7; Page 12 Lines 6-9, 26-28; Page 4, Lines 24-25). In contrast, Dreyfus clearly discloses that all communications between objects do not go directly from object to object, but *must* go through an Object Request Broker (i.e., an ORB). (Dreyfus; section entitled: “Multitiered Applications: How CORBA Works”; Lines 1-22). Further, unlike the present invention, CORBA environments, as disclosed in

Dreyfus, introduce a “single point of failure” (i.e., the ORB), which could potentially disable a system. (Present Application, Page 4, Lines 6-20). Therefore, Applicant asserts that Dreyfus does not disclose, teach or suggest a *direct*, object-to-object communications protocol.

Based on the rationale above, Applicant contends that none of the references cited by the Patent Office against the present invention, either alone or in combination, disclose, teach or suggest the above-referenced elements as claimed in Claims 1 and 13 of the present application and therefore, the above-cited references do not preclude patentability of the present invention under 35 U.S.C. § 103(a). Thus, independent Claims 1 and 13 are believed allowable. Further, Claims 2-12 and 40 (which depend from claim 1) and Claims 14-24 and 41 (which depend from claim 13) are therefore allowable.

Applicant further contends that there would have been no motivation, nor would it have been obvious to one of ordinary skill in the art at the time of the present invention to combine or modify any of the above-cited references, either alone or in combination, in an attempt to arrive at the present invention as claimed. First, Freund actually teaches away from the present invention by disclosing that its system implements CORBA architecture, an architecture which, as mentioned above, is *incompatible* for implementation with the present invention. (Freund, Column 5, Lines 49-52). Further, Applicant points out, based on similar reasoning, that the Dreyfus reference (which focuses on CORBA architecture) also teaches away from the present invention.

“The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. .... It is impermissible to use the claimed invention as an instruction manual or ‘template’ to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that “one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.” *In re Oetiker*, 977 F.2d 1443, 24 USPQ 2d 1443 (Fed. Cir. 1992) *quoting In re Fine*, 837 F.2d 1071, 1075, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988).

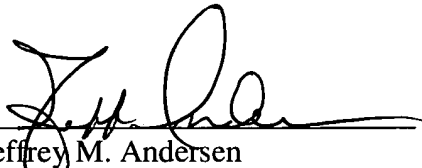
The Patent Office has proceeded to *impermissibly* use the present patent

application as a basis for the motivation to combine or modify the prior art in an attempt to arrive at the claimed invention. As a result, a *prima facie* case of obviousness has not been established for independent Claims 1 and 13. Thus, independent Claims 1 and 13 are believed allowable. Further, Claims 2-12 and 40 (which depend from claim 1) and Claims 14-24 and 41 (which depend from claim 13) are therefore allowable.

**CONCLUSION**

In light of the forgoing, reconsideration and allowance of the pending claims is earnestly solicited.

Respectfully submitted on behalf of  
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